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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/589,200	08/11/2006	Laurent Arghyris	1032013-000140	6599
23911 7590 04/28/2009 CROWELL & MORING LLP INTELLECTUAL PROPERTY GROUP P.O. BOX 14300 WASHINGTON, DC 20044-4300			EXAMINER BAINBRIDGE, ANDREW PHILIP	
			ART UNIT 3754	PAPER NUMBER
			MAIL DATE 04/28/2009	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/589,200

**Applicant(s)**

ARGHYRIS ET AL.

**Examiner**

ANDREW P. BAINBRIDGE

**Art Unit**

3754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF 298)  
Paper No(s)/Mail Date 12/7/2006
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_

## DETAILED ACTION

### *Claim Objections*

1. **Claims 1-12 are objected to** because of the following informalities: In claim 1, line 1, the claim describes a "flexible pouch of the one-piece type", which does not effectively narrow the type of pouch limitation, and so was given no weight for examination purposes. Appropriate correction is required.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. **Claims 1-6 and 8-12 are rejected under 35 U.S.C. 103(a)** as being unpatentable over US 4,469,250 (Evezich) in view of US 3,606,089 (C.D. Chambers).

5. Evezich in figures 1-4 discloses a deformable flexible pouch 12 to hold liquid or pasty fluid products (col. 2, lines 30-40) which is connected to a rigid frustoconical upper concave portion 13 near the flange 14 that forms an opening 16 for a liquid dispensing passage (see figures 1-2) the flexible pouch positioned within a resilient container 32 during dispensation is squeezed, thereby squeezing the chamber surrounding the flexible pouch 12 such that material is squeezed out of the flexible bag 12 through the neck passage 16 and out of the container 25, and upon releasing the resilient container 32, the resilient container returns to its original shape, which forms a partial vacuum around the flexible pouch 12, which is enough of a vacuum to force open the check valve with a flap 36 to let air in between the resilient container 32 and the flexible pouch 12, the rigid upper concave portion 13 has a flange 14 that has a wider circumference than the flexible pouch 12 which is drawn closer and closer to the upper shoulder 13 as the flexible pouch 12 is dispensed, the periphery flange 14 resting on a shoulder formed in the inner wall of the bottle 22,27.

Evezich does not teach a concertina in the pouch that folds into the upper shoulder as the pouch shrinks, the concertina being greater diameter than the neck of the pouch, the flexible pouch in a rigid bottle and a manual pump without an air inlet, with an air circuit with transverse grooves formed on the periphery of the base of the upper rigid part of the pouch in the zone of articulation between the upper and lower parts of the pouch, the vent for the container having a filter, the pump body being fastened at the orifice of the rigid bottle by conventional means above the pouch.

Chambers in figures 1-7 teaches a concertina (see figures 1-2) in the sack 40 that folds into the upper shoulder as the material is dispensed, the concertina having a greater diameter than the neck 44 of the pouch 40, with a rigid bottle 10 and a manual pump 34,38 (col. 2, lines 45-72) without an air inlet (see figures 1-3), with an air circuit 52 with transverse grooves (see figure 3) that go over the upper shoulder 46 and down into the space 10a between the outer bottle 10 and the flexible bag 40 the pump body 34,38 is attached to the container 10 by conventional means, such as by crimping 23. It would be obvious to one of ordinary skill in the art to adapt Chambers to Evezich because Chambers solves several problems for Evezich including a concertina to ensure that the bag collapses in a way that little material as possible remains in the flexible bag at the end of dispensation, and the air circuit provides a way to get air in the container from the top if necessary, such as during the original filling of the container.

Although neither reference explicitly claims a filter for the air check valve, filters for air valves are widely known in the art, and are an example of routine design choice. It would be obvious to one of ordinary skill in the art to add a filter to the air intake valve because filters for air valves are widely known in the art and their value for keeping the entering air as clean as possible is widely known and understood in the art.

6. **Claim 7 is rejected under 35 U.S.C. 103(a)** as being unpatentable over Evezich in view of Chambers as applied in claim 1 and further in view of US 3,620,420 (Norman) and US 5,123,571 (Rebeyrolle et al.).
7. Evezich in view of Chambers as applied in claim 1 has all of the elements of claim 7 except for a concave lower end of the dispensing pouch with a supporting cross

member that extends along a diameter. Norman in figures 1-14 teach a rigid concave shaped base member 4 for a flexible pouch 2, but does not teach a reinforcing diametrical cross member. Rebeyrolle in figures 14-15 teaches a reinforcing member 90 that extends from one end of the collapsing bag 4 to the other end (see figure 15). It would be obvious to one of ordinary skill in the art to adapt Rebeyrolle to the Evezich device because Rebeyrolle teaches additional way to ensure that the bottom of the bag is strong enough to collapse in on itself in a way that would leave excessive material trapped in the flexible bag.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANDREW P. BAINBRIDGE whose telephone number is (571)270-3767. The examiner can normally be reached on Monday to Thursday, 9:30 AM to 8:30 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/A. P. B./  
Examiner, Art Unit 3754

/Kevin P. Shaver/  
Supervisory Patent Examiner, Art  
Unit 3754